



September 5, 2018

To: Sen. Judy Emmons, Chair
House Families, Seniors and Human Services Committee

From: Amy Zaagman, MCMCH Executive Director

Concerns re: HBs 5750, 5751, 5953 and 5954

The purpose of the Michigan Council for Maternal and Child Health is to advocate for public policy that will improve maternal and child health outcomes through prevention programs, access to care and adequate funding. We support the current Safe Delivery of Newborns Law and the program that has been in place since 2000 that has resulted in the surrender of 226 infants in our state.

We have many questions and concerns about HBs 5750 and 5751 and companion bills 5953 and 5954. We appreciate the stated intent of the legislation to increase ways in which infants can be safely surrendered but we are concerned that the bills have not been reviewed by those most knowledgeable about the current program for their feedback and input on unintended consequences.

The original Safe Delivery of Newborns Law was a multi-bill, bi-cameral package that received many hours of workgroup and direct communication with various interested parties before they were moved through committee and the legislative process. The bills were carefully crafted upon those efforts. Additional amendments have been made in recent years to further preserve anonymity for the surrendering parent.

Much of the effort made on the original bills centered on the amount and type of information exchanged—facilitated by human to human contact—at the time of surrender. The current model was arrived at for the benefit of both the surrendering individual (things such as rights to revoke the surrender within 28 days, health and safety information) as well as for the infant (attempt to gather information about the other parent, any health history).

In addition to introducing the concept of a “newborn safety device,” this package of bills makes a substantial and sweeping change to current law by extending the time period for all provisions of the law to apply from an infant of no more than 72 hours of age to one up to 30 days.

As you have already learned from Michigan Department of Health and Human Services testimony, the vast majority of surrenders are currently

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taking place at the hospital following delivery. A change in the age of the infant will significantly increase the amount and type of outreach about the program needed as well require additional training of emergency service providers.

The change in the infant age limit may also significantly alter the type and frequency of scenarios in which an infant is surrendered. HB 5954 creates an affirmative defense from the penal code penalties for harming a child—the potential for harm to a child between 3 and 30 days old is significant.

While the intent of the newborn safety device is to honor the perceived desire for anonymity by a birth mother, without any means of monitoring it is also possible she will not be the individual placing the infant in the device. At a minimum, experts in the fields of domestic violence and human trafficking should review these bills to assure enough protections exist in situations where a woman may be coerced into a surrender or may be unaware their infant has been surrendered. We also have fear that by placing the boxes on the exterior of the safe delivery locations, it will send the message that it is the preferred method and discourage someone from the person-to-person surrender.

Lastly, we would share concerns about the safety of the devices themselves, and while it may be envisioned that standards and compliance protocols could be created in rules, those efforts will not come without effort and cost. To the extent that additional appropriations and staff are not identified, it is likely any legislative mandate to put forth this effort may result in decreased ability for the program to do outreach and training that we know continues to be critical and will be even more so if the law is amended.

We all want to ensure that any mother who wishes to surrender a newborn she cannot care for has a safe way in which to do so and that we avoid any tragic loss of infant life. We hope that this committee meeting is the start of a discussion about how best to craft HBs 5750, 5751, 5953 and 5954 for the best outcomes.